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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HENRY WILLIAM DEMPSEY, JR.,

Petitioner,

v.

WARDEN GARRETT, *et al.*,

Respondents.

Case No. 3:21-cv-00302-RCJ-CSD

ORDER

11 This habeas matter is before the Court on Petitioner's Motion for Partial Dismissal (ECF
12 No. 52).

13 On September 12, 2023, the Court found the petition in this action to be mixed,
14 containing both exhausted and unexhausted claims. ECF No. 50. The Court informed Petitioner
15 of his three options: (1) file a motion to dismiss seeking partial dismissal of only the unexhausted
16 claims; (2) file a motion to dismiss the entire petition without prejudice in order to return to state
17 court to exhaust the unexhausted claims; and/or (3) file a motion for other appropriate relief,
18 such as a motion for a stay and abeyance asking this Court to hold his exhausted claims in
19 abeyance while he returns to state court to exhaust the unexhausted claims. *Id.*

20 Petitioner filed the motion informing the Court of his intent to dismiss his unexhausted
21 claim and pursue his remaining claim. No opposition having been filed by Respondents and the
22 time for doing so having expired, Petitioner's Motion for Partial Dismissal (ECF No. 52) is
23 granted.

24 It is therefore ordered that Ground 1 is dismissed without prejudice as unexhausted and by
25 Petitioner's request.

26 It is further ordered that Respondents will have 60 days to answer the remaining claim of
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1 the petition in this case.

2 It is further ordered that Petitioner will have 30 days following service of the answer to
3 file and serve a reply brief.

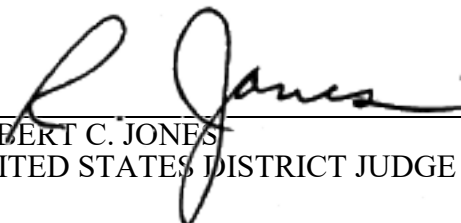
4 It is further ordered that in the answer, Respondents must specifically cite to and address
5 the applicable state court written decision and state court record materials, if any, regarding each
6 claim within the response as to that claim.

7 It is further ordered that any additional state court record and related exhibits must be
8 filed in accordance with LR IA 10-3, LR IC 2-2, and LSR 3-3 and include a separate index
9 identifying each additional exhibit by number or letter. The index must be filed in CM/ECF's
10 document upload screen as the base document to receive the base docket number (*e.g.*, ECF
11 No. 10). Each exhibit will then be filed as "attachments" to the base document—the index—to
12 receive a sequenced sub-docket number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit B (ECF
13 No. 10-2), Exhibit C (ECF No. 10-3), and so forth). If the exhibits will span more than one filing,
14 the base document in each successive filing must be either a copy of the index or volume cover
15 page. *See* LR IC 2-2(a)(3)(A).

16 It is further ordered that, notwithstanding LR IC 2-2(g), paper copies of any
17 electronically filed exhibits—for this case—*need not* be provided to chambers or to the staff
18 attorney, unless later directed by the court.

19 All other instructions set forth in the Court's January 10, 2022 order (ECF No. 16)
20 remain in effect.

21 DATED this 11th day of December 2023.

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24 ROBERT C. JONES
25 UNITED STATES DISTRICT JUDGE
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